

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Brenda Forman  
Plaintiff

vs.

Al Schmidt, Secretary of the Commonwealth  
Defendant(s)

Case No. 2:24-CV-266

**FILED**

APR 01 2024

CLERK U.S. DISTRICT COURT  
WEST DIST OF PENNSYLVANIA

AMENDED COMPLAINT

- I. The plaintiff is a resident of Pittsburgh, Allegheny County, Pennsylvania, a duly qualified elector, an elected Republican Committeewoman, and a citizen of the United States.
- I. The defendant, Al Schmidt, Secretary of the Commonwealth, is a resident of Harrisburg PA and a citizen of the United States.

JURISDICTION

- I. This court has jurisdiction over this matter pursuant to the Violation of Title IV of the Help America Vote Act (HAVA) (2002), Section 2 of the National Voting Rights Act (NVRA), the Equal Protection Clause of the 14<sup>th</sup> Amendment, the Due Process Clause of the 5<sup>th</sup> Amendment, 1st Amendment, 15th Amendment, 19<sup>th</sup> Amendment, 24<sup>th</sup> Amendment, 26<sup>th</sup> Amendment, and the 9<sup>th</sup> Amendment.

FACTS

1. The Secretary of the Commonwealth of Pennsylvania, in his official capacity, has ignored facts proving that the election machines/systems utilized in Pennsylvania elections are not certified in compliance with Federal and State code. Plaintiff asserts: that the use of unlawfully certified electronic voting machines in elections, which have countless documented security vulnerabilities, and which do not have transparent processes for the public to view, violate the individual and private rights of Plaintiff to participate in free (not under the control of others) and fair (free from suspicion or bias; reasonable) elections. If voters are unable to verify that their intended vote 52 U.S.Code §21081 "each State shall adopt uniform and nondiscriminatory standards that reinfect what constitutes a vote and what will be counted as a vote for each category of voting system used in the State." is tabulated accurately in the voting systems, and if Defendants fail to show verifiable evidence of tabulated accuracy, elections conducted in this manner are neither free nor fair. This lack of action, on the part of the Secretary of the Commonwealth of Pennsylvania, in his official capacity, violates Title IV of The Help America Vote Act (HAVA) of 2002, Section 2 of the Voting Rights Act, The Constitution of the Commonwealth of Pennsylvania Article VII, § 6. Election and Registration Laws, and Pennsylvania Statutes Title 25 P.S. Elections and Electoral Districts §3031.2 through §3031.4., Inclusive.
2. The Help America Vote Act, the Voting Rights Act, The Constitution of the Commonwealth of Pennsylvania, and the Pennsylvania Election Code are all legislative tools used to protect the citizens of the United States and of the Commonwealth of Pennsylvania. When there has been a violation of the laws' provisions there is voter fraud and discrimination, disparate treatment and unequal access to the electoral process, the deprivation of the right to participate in a fair and reliable electoral process.

3. According to a list of the Commonwealth of Pennsylvania's own requirements posted on the EAC's website and the U.S. Election Assistance Commission Voting System Testing and Certification Program, the Commonwealth of Pennsylvania participates as set forth: State Participation: Requires testing by a federally accredited laboratory. Pennsylvania requires that its voting systems are approved by a federally recognized independent testing laboratory and meet federal voting system standards. Applicable Statute(s): Any person or corporation owning, manufacturing or selling, or being interested in the manufacture or sale of, any electronic voting system, may request the Secretary of the Commonwealth to examine such system if the voting system has been examined and approved by a federally recognized independent testing authority and if it meets any voting system performance and test standards established by the Federal Government. 25 PA Stat § 3031.5 (2019) State Certification Process: The Secretary of State examines voting systems, upon request, once the voting systems have received approval by a federally recognized independent testing authority. The person(s) requesting the examination of the voting system are responsible for the cost of the examination. After the examination, the Secretary of State issues a report stating whether or not the voting systems are safe and compliant with state and federal requirements. If the voting systems are deemed safe and compliant by the Secretary of State, then the systems may be adopted and approved for use in elections by each county through a majority vote of its qualified electors. The Secretary of the Commonwealth may, at any time, reexamine or decertify a voting system. 25 Pa. Stat. Code §§3031.2-5 (2019) designated federal authority, before delivery to and acceptance by the State.

Though they are used in Allegheny County, the voting systems have not been adopted nor approved for use in Allegheny County elections through a majority vote of qualified electors.

4. Defendant; Al Schmidt has violated Federal and Constitutional laws. Defendant was given notice of the violations and vulnerabilities, with evidence, of the electronic voting machines used in the Commonwealth of Pennsylvania. Defendant certified the November 7, 2023 General Election, despite the use of unlawfully certified voting systems to obtain election results. Defendant was remiss in his official duties acting under the color of law and is in violation of HAVA in not acknowledging the expiration of the certification of accreditations of VSTLs or the lack of legal signature per HAVA, thereby allowing voting machines to be used in county elections. Defendant, acting under the color of law, administered elections with nonHAVA compliant voting system equipment, software, and modifications for the Commonwealth of Pennsylvania to be used in local, state, and federal elections in that occurred after September 17, 2018. These systems remain unlawfully certified to date.
5. The federally protected right to vote is not just related to the right to CAST a vote. It is the right to ELECT our government. The entire process must be guaranteed. Anything that circumvents that process is inherently infringing upon the right we have to pursue life, liberty, and happiness. No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. "One person one vote", *Wesberry v. Sanders*, 376 U.S. 1, 10 (1964).
6. In addition, lawful elections are the backbone of our local, state, and federal government. The right to vote is protected by the Equal Protection Clause of the 14<sup>th</sup> Amendment and the Due Process Clause of the 5<sup>th</sup> Amendment alongside the 1<sup>st</sup> Amendment: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances, the 9<sup>th</sup> Amendment: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people, the 15th Amendment, §1 provides: The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude (which guarantees we will not be denied the right to cast our ballots by malicious and/or conspiring actors. Because the right to vote is personal). *Reynolds v Sims*, 377 U.S. at 561-62. [e]very voter in a federal & election, whether he votes for a candidate with little chance of winning or for one with little chance of losing, has a right under the Constitution to have his vote fairly counted, The 19<sup>th</sup> Amendment, the 24<sup>th</sup> Amendment, and the 26<sup>th</sup> Amendment also protect our right to vote.

RELIEF

7. Plaintiff respectfully requests the Court to grant an emergency injunction that the ES&S voting system/machines in the County of Allegheny AND the Commonwealth of Pennsylvania NOT be used for another election until the issues regarding the voting system/machines certifications can be publicly rectified.

8. Plaintiff respectfully requests the Court to rectify the harm caused by nullifying the election results from any ES&S machine that is found to have not been properly certified by the laws governing the Election Assistance Commission and their certification process for electronic election machines used in Pennsylvania elections, and hence, the Pennsylvania Secretary of State.
9. Plaintiff respectfully requests the Court to grant an emergency injunction, that all of the data and/or information of the voting systems and/or equipment from the June 3, 2020 elections forward be preserved intact without tampering, nor deletion.
10. Plaintiff respectfully requests the Court grant an emergency temporary restraining order for Hon. Al Schmidt, in his official capacity as Pennsylvania Secretary of the Commonwealth, and the Department of State to preserve all election records/ballots/documentation/correspondence from June 3, 2020 forward.
11. Damages: The plaintiff requests the potential to award damages to those who were adversely affected by the failure to enforce the law.

ADDITIONAL INFO

12. Injuries Invasion/violation of Plaintiff's individual and private 1<sup>st</sup>, 5<sup>th</sup>, 9<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 19<sup>th</sup>, 14<sup>th</sup> and 25<sup>th</sup> Amendments of the U.S. Constitutional Rights and of the following federal statutory rights: USC § 20510 (b) 1-3 and 52 USC § 20510 (d); 42 U.S. Code § 1983; Title IV of The Help America Vote Act (HAVA) of 2002 and Section 2 of the Voting Rights Act and the following Pennsylvania laws: The Constitution of the Commonwealth of Pennsylvania Article VII, § 6. Election and Registration Laws, and Pennsylvania Statutes Title 25 P.S. Elections and Electoral Districts §3031.2 through §3031.4., Inclusive.
13. My vote was diluted, in violation of Section 2 of the Voting Rights Act. In order to cast my vote, I was forced to use potentially vulnerable, and proven illegal voting machines/systems during multiple elections causing me duress. I don't know if my vote was tallied with my intent, or even counted. My faith in effective governance is forever tarnished. I vote but do not trust that my voice will be heard at the ballot "box", which is really a machine with a black box that no one can view. Because I cannot verifiably witness the ballots being counted in my precinct, Plaintiff is increasingly disenfranchised.
14. Plaintiff does not know if her "elected" representatives were truly elected if the ES&S machines were used during their elections. It is a question that needs to be answered once and for all with verifiable transparent proof.
15. Plaintiff dedicated a substantial degree of her personal time, energy, and resources in order to collect, analyze, and synthesize various source materials, and send them to the Defendant to potentially affect remedy outside of the judicial system. Due to the lack of action on the part of the Defendant, options for potential relief and restoration of my private voting rights are limited to the courts. With limited resources and a lack of availability of lawyers who would take a case of this nature, even more time, energy, and resources were expended to navigate the unfamiliar waters of self-representation in a court of law. This particular injury has also resulted in decreased quality time with friends and family, and in particular, less time to maintain my home and personal life, as well as the stress also affecting my full-time employment.

Brenda Forman

Signature of pro se Plaintiff

4/1/2024

Date